

LAW OFFICES
COHN AND MARKS LLP

ROBERT B. JACOBI
ROY R. RUSSO
RONALD A. SIEGEL
LAWRENCE N. COHN
RICHARD A. HELMICK
J. BRIAN DE BOICE
JEROLD L. JACOBS
ELLEN MANDELL EDMUNDSON

SUSAN V. SACHS

DIRECT DIAL: (202) 452-4810

**SUITE 300
1920 N STREET N.W.
WASHINGTON, D.C. 20036-1622**

TELEPHONE: (202) 293-3860
FACSIMILE: (202) 293-4827
HOME PAGE: WWW.COHNMARKS.COM

MARCUS COHN (1913-2001)
LEONARD H. MARKS (1916-2006)

OF COUNSEL:
JOEL H. LEVY

EMAIL ADDRESS:
Robert.Jacobi@Cohnmarks.com

April 25, 2008

FILED/ACCEPTED

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Federal Communications Commission
Office of the Secretary

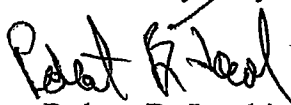
VIA HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals II
445 - 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Dear Ms. Dortch

On behalf of the McKinnon Stations, there is herewith transmitted an original and nine copies of "McKinnon Stations Comments" in the matter of Broadcast Localism (MB Docket No. 04-233).

Yours very truly


Robert B. Jacobi

RBJ:btc

Enclosures

cc: The Commissioners

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BEFORE THE
Federal Communications Commission

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APR 23 2008

Federal Communications Commission
Office of the Secretary

In the Matter of

Broadcast Localism

)
)
) MB Docket No. 04-233

To: **Office of the Secretary**
Federal Communications Commission

MCKINNON STATIONS COMMENTS

Channel 3 of Corpus Christi, Inc., licensee of station KIII, Corpus Christi, Texas;
Channel 12 of Beaumont, Texas, Inc., licensee of station KBMT, Beaumont, Texas; and
Channel 51 of San Diego, Inc., licensee of station KUSI, San Diego, California
(hereinafter the "McKinnon Stations"), by and through counsel, respectfully submit
Comments in the above-referenced proceeding.

The Federal Communications Commission (hereinafter the "Commission")
released a document entitled Report on Broadcast Localism and Notice of Proposed
Rulemaking ("NPRM") on January 24, 2008. The following Comments are directed to
Section IIIA ("Communication Between Licensees and Their Communities") and Section
IIIH ("License Renewal Procedures")¹ and are intended for commercial licensees only.

¹ McKinnon stations believe that the imposition of specific government mandates as to
the methodology of ascertainment efforts and specific program renewal guidelines
violates the First Amendment. In the event that the Commission determines to
proceed with the proposals discussed herein, the Comments proffered may avoid
First Amendment issues.

1. The Commission acknowledges that

“...some broadcasters engage in substantial, inventive, and ongoing efforts to identify the needs and interests of the members of their communities of license as a first step in formulating and airing locally oriented, community-responsive programming that will meet those needs.” (NPRM, Para. 13)

Moreover, the NPRM references the fact that at the localism field hearings, many local officials commended their respective area broadcasters for their interaction with their communities and the provision of locally oriented programming (NPRM, p. 7, n.24) and that “...some licensees strive to actively ascertain the needs and interests of the communities they serve and air programming that reflects those needs and interests” (NPRM, Para. 15). Nevertheless, the NPRM concludes “... there is some question as to whether these practices have been widespread” (NPRM, Para. 15). In short, the NPRM recognizes the existence of a conundrum: (a) there are broadcasters which “... engage in substantial, inventive, and ongoing efforts to identify the needs” (NPRM, Para. 13) and which provide programming responsive to those needs and (b) broadcasters which fall short as to ascertainment efforts and the airing of responsive programming. The Commission’s primary focus should be directed to the latter.

2. The Commission’s existing methodology for achieving compliance with EEO “Outreach Activities” (Section 73.2080(c)(2)) provides an equitable framework for government regulation of factual situations which present a conundrum.²

² Section 73.2080 of the rules sets forth a menu of 16 “Outreach Activity” options. Licensees with more than ten full-time employees and not located in a smaller market are required to participate in at least four of the menu options over a two-year time period.

For example, instead of mandating Community Advisory Boards or renewal guidelines such as the number of hours per week/percentages for locally oriented programming, develop a menu of options setting forth numerous initiatives for ascertainment efforts (which could include the aforesaid options) and requiring that the broadcaster satisfy a given number of the options dependent upon factors such as market size and Class (television, radio-AM/FM).

3. Such an approach would allow the respective broadcaster to determine the most effective local ascertainment methodology and to maintain licensee control of programming in lieu of governmental mandates – an approach consistent with the views expressed by Commissioners McDowell and Tate. Moreover, such approach would in fact primarily affect only those stations which are deemed to “fall short” – since it is reasonable to presume that stations categorized in the NPRM as engaging “. . . in substantial, inventive, and ongoing efforts to identify the needs” will have already satisfied all or most of the required number of menu options.

4. Finally, such an approach is substantially less vulnerable to First Amendment issues.

Respectfully submitted
COHN AND MARKS LLP

By: 

Robert B. Jacobi
1920 N Street, N.W.
Suite 300
Washington, DC 20036
(202) 293-3860

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